ACT No. 315

HOUSE BILL NO. 1117

BY REPRESENTATIVE MORRIS AND SENATOR DUPRE

1	AN ACT
2	To amend and reenact R.S. 30:22, 23, 148.1, 148.2, 148.3, 148.4, 148.5, 148.6, 148.8, and
3	$148.9(A) \ and \ (B) (introductory paragraph) \ and \ to \ repeal \ R.S.\ 30:148.9(B)(1), (2), and \ (3) \ and \ (4) \ (2), and \ (3) \ $
4	(3), relative to mineral leases; to provide for leases for storage; to provide for
5	application, advertising, notice, bids, public hearings, and selection for certain leases;
6	to provide for the authority of the State Mineral Board and the commissioner of
7	conservation; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 30:22, 23, 148.1, 148.2, 148.3, 148.4, 148.5, 148.6, 148.8, and
10	148.9(A) and (B)(introductory paragraph) are hereby amended and reenacted to read as
11	follows:
12	§22. Underground storage of natural gas, liquid hydrocarbons, and carbon dioxide
13	A. The underground storage of natural gas, liquid hydrocarbons, and carbon
14	dioxide which promotes conservation of natural gas or liquid hydrocarbons, or which
15	permits the building of large quantities of natural gas or liquid hydrocarbons in
16	reserve for orderly withdrawal in periods of peak demand, making natural gas or
17	liquid hydrocarbons more readily available to the consumer, or which provides more
18	uniform withdrawal from various gas or oil fields, each is in the public interest and
19	for a public purpose.
20	B. Prior to the use of any underground reservoir for the storage of natural gas
21	and prior to the exercise of eminent domain by any person, firm, or corporation
22	having such right under laws of the state of Louisiana, and as a condition precedent
23	to such use or to the exercise of such rights of eminent domain, the commissioner,

after public hearing pursuant to the provisions of R.S. 30:6, shall have found <u>all of</u> the following:

- (1) That the underground reservoir sought to be used for the injection, storage, and withdrawal of natural gas is suitable and feasible for such use, provided no reservoir, any part of which is producing or is capable of producing oil in paying quantities, shall be subject to such use, unless all owners in such underground reservoir have agreed thereto, and no reservoir shall be subject to such use (a) unless the volumes of original reservoir gas and condensate content therein which are capable of being produced in paying quantities have all been produced; or (b) unless such reservoir has a greater value or utility as an underground reservoir for gas storage than for the production of the remaining volumes of original reservoir natural gas and condensate content, and at least three-fourths of the owners, in interest, exclusive of any "lessor" defined in R.S. 41:1261 R.S. 30:148.1, have consented to such use in writing;
- (2) That the use of the underground reservoir for the storage of natural gas will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits; and.
 - (3) That the proposed storage will not endanger lives or property.

C. Prior to the use of any underground reservoir for the storage of liquid hydrocarbons or carbon dioxide, the commissioner, after public hearing pursuant to the provisions of R.S. 30:6, shall have found all of the following:

(1) That the underground reservoir sought to be used for the injection, storage, and withdrawal of liquid hydrocarbons or carbon dioxide is suitable and feasible for such use, provided no reservoir, any part of which is producing or is capable of producing oil in paying quantities, shall be subject to such use, unless all owners in such underground reservoir have agreed thereto, and no reservoir shall be subject to such use (a) unless the volumes of original reservoir gas and condensate content therein which are capable of being produced in paying quantities have all been produced; or (b) unless such reservoir has a greater value or utility as an underground reservoir for gas storage than for the production of the remaining

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volumes of original reservoir natural gas and condensate content, and at least three-fourths of the owners, in interest, exclusive of any "lessor" defined in R.S. 30:148.1, have consented to such use in writing.

(2) That the use of the underground reservoir for the storage of liquid hydrocarbons or carbon dioxide will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits.

(3) That the proposed storage will not endanger lives or property.

C. D. The commissioner shall determine with respect to any such underground reservoir proposed to be used as a storage reservoir, whether or not such reservoir is fully depleted of the original commercially recoverable natural gas and, condensate, or liquid hydrocarbon content therein. If the commissioner finds that such reservoir has not been fully depleted, the commissioner shall determine the amount of the remaining commercially recoverable natural gas and, condensate, or liquid hydrocarbon content of such reservoir.

D. E. The commissioner may issue any necessary order providing that all natural gas, liquid hydrocarbons, or carbon dioxide which has previously been reduced to possession and which is subsequently injected into an underground storage reservoir shall at all times be deemed the property of the injector, his successors and assigns; and in no event shall such gas, liquid hydrocarbons, or <u>carbon dioxide</u> be subject to the right of the owner of the surface of the lands or of any mineral interest therein under which such underground storage reservoir shall lie or be adjacent to or of any person other than the injector, his successors, and assigns to produce, take, reduce to possession, waste, or otherwise interfere with or exercise any control thereover, provided that the injector, his successors, and assigns shall have no right to gas or liquid hydrocarbons in any stratum or portion thereof not determined by the commissioner to constitute an approved underground storage reservoir. The commissioner shall issue such orders, rules, and regulations as may be necessary for the purpose of protecting any such underground storage reservoir, strata, or formations against pollution or against the escape of natural gas, liquid hydrocarbons, or carbon dioxide therefrom, including such necessary rules and

regulations as may pertain to the drilling into or through such underground storage
reservoir.

§23. Underground storage of liquid or gaseous hydrocarbons or both <u>or carbon</u> <u>dioxide</u>

A. The underground storage of liquid and/or or gaseous hydrocarbons or carbon dioxide will permit the accumulation of large quantities of such liquid and/or or gaseous hydrocarbons for orderly withdrawal in times of greater demand, it being deemed in the public interest to have a supply of such hydrocarbons readily available for consumption. The underground storage of carbon dioxide which provides more uniform withdrawal from various gas or oil fields is in the public interest and for a public purpose.

B. Except as to liquid and/or or gas storage or carbon dioxide projects begun before the effective date hereof of this Section, and prior to authorizing the use of any salt dome cavity for the storage of liquid and/or or gaseous hydrocarbons or carbon dioxide, the assistant secretary, after public hearing pursuant to the provisions of R.S. 30:6, shall have found all of the following:

- (1) That the area of the salt dome sought to be used for the injection, storage, and withdrawal of liquid and/or or gaseous hydrocarbons, or carbon dioxide is suitable and feasible for such use.
- (2) That the use of the salt dome cavity for the storage of liquid and/or or gaseous hydrocarbons or carbon dioxide will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits, except salt; and.
- (3) That the proposed storage, including all surface pits and surface storage facilities incidental thereto which are used in connection with the salt dome cavity storage operation, will not endanger lives or property and is environmentally compatible with existing uses of the salt dome area.
- (4) That temporary loss of jobs caused by the storage of liquid and/or or gaseous hydrocarbons or carbon dioxide will be corrected by compensation, finding of new employment, or other provisions made for displaced labor.

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(5) That due consideration has been given to the alternative sources of water for the leaching of cavities.

C. After having made the findings required in Subsection B of this Section, the commissioner shall transmit a copy of the application, together with his findings, to the natural resources committees of the Senate and House of Representatives. These committees, meeting jointly, shall consider the facts surrounding the application and the findings of the commissioner and may hold public hearings thereon. Based upon its deliberations, the committees, acting jointly, may submit a report and recommendations to the commissioner within fifteen days after receipt of After consideration of any recommendations so made, the the application. commissioner may issue all necessary orders providing that liquid and/or or gaseous hydrocarbons or carbon dioxide, previously reduced to possession and which are subsequently injected and stored in a salt dome cavity, shall at all times be deemed the property of the injector, his successors, or assigns, subject to the provisions of any contract between the owner or owners of the solid mineral or land overlying the area affected as determined by the commissioner of conservation; and providing further that in no event shall the owner of the surface of the lands or water bottoms or of any mineral interest under or adjacent to which such salt dome cavity may lie, or any other person, be entitled to any right or claim in or to such liquid and/or or gaseous hydrocarbons or carbon dioxide stored therein, including the right to produce, take, reduce to possession, waste, or otherwise interfere with or exercise any control thereover. The commissioner shall issue necessary orders, rules, and regulations for the protection from pollution of any salt dome cavity used for storage of liquid and/or or gaseous hydrocarbons or carbon dioxide, or any adjacent strata or formation; and such rules and regulations as may be necessary pertaining to surface storage facilities for the protection of the environment, drilling into any salt dome for the creation of cavities, and equipping of same for the injection, storage, and withdrawal of liquid and/or or gaseous hydrocarbons or carbon dioxide. Subject to the exception provided in Subsection B of this Section, the commissioner shall not allow the use of any salt dome in the state of Louisiana for the purposes mentioned

herein until such time as he has prepared and promulgated the regulations required herein according to the Louisiana Administrative Procedure Act, R.S. 49:951 et seq. In addition, the commissioner shall issue necessary orders, rules, and regulations for the protection of the rights of owners of parts of the salt dome which are adjacent to any part thereof sought to be used for liquid and/or or gaseous hydrocarbon or carbon dioxide storage.

D.(1) In furtherance of the development of comprehensive energy policy for the state, the secretary of the Department of Natural Resources shall determine the feasibility of initiating projects, by the state or by contract on behalf of the state, for the storage of emergency supplies of state-owned oil and gas or carbon dioxide. Such determination shall include consideration of the techniques, costs, quantities of oil and gas or carbon dioxide available for such purpose and priorities for allocation in time of emergency.

(2) Upon presentation of the findings and determination by the secretary to the committees on natural resources of the Senate and House of Representatives and approval by said committees of any such projects, the secretary shall authorize the commissioner of conservation to initiate such procedures as the commissioner deems necessary within the scope of his authority under Chapter 7 of this Title 30 and the constraints of this Section to accomplish the purposes hereof.

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§148.1. Lessor defined

For the purposes of this Subpart the term "lessor" shall refer to and include the office of mineral resources, the commissioner of conservation State Mineral Board, any school district, levee district, drainage district, municipal or parochial subdivision of this state, any penal or charitable institution, any state university or college, and any other unit or institution deriving its authority and powers from the sovereignty of the state.

§148.2. Lands which may be leased

A. Any lessor may, through its governing authority, lease any lands of which the lessor has title, custody, or possession, and the office of mineral resources State

Mineral Board may lease the <u>lands</u>, bodies of any lakes, bays or coves, <u>sea</u>, <u>arms of</u>
the sea, or other navigable waters and beds thereof <u>belonging to the state or the title</u>
to which is in the <u>public</u>:

- (1) For the purpose of granting to the lessee the right to erect and use on the surface of the leased premises tanks and facilities for the receipt, storage, withdrawal, transportation, and shipment of oil, natural gas, liquid or liquified hydrocarbons, carbon dioxide, goods, wares, and merchandise, and for other purposes necessary or incidental to the receipt, storage, transportation, and shipment of oil, goods, wares, and merchandise thereto, including the construction of houses for employees, warehouses, pipelines, separation and dehydration facilities, pump stations, compressor stations, loading stations, wharves, and docks.
- (2) For the purpose of injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, or carbon dioxide in any underground reservoir lying beneath such lands or water bodies, and beds thereof, and for other purposes necessary or incidental to the injection, storage, and withdrawal of natural gas thereto, including drilling of any wells for injection, storage, or withdrawal of such natural gas product stored in such underground reservoir and the construction of houses for employees, warehouses, pipelines, separation and dehydration facilities, compressor stations, pump stations, loading stations, wharves, and docks. For the purposes of this Subpart, "reservoir" means any natural or manmade spaces capable of containing or holding natural gas or liquefied hydrocarbons, including caverns created in salt domes.
- (3) For the purpose of making and using caverns in salt domes lying beneath such lands or water bodies, and beds thereof, for the injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, or carbon dioxide and for other purposes necessary or incidental to the making of such eaverns, and the injection, storage, and withdrawal of liquid hydrocarbons thereto, including drilling of any wells for making such caverns and for injecting, storing, and withdrawing of such liquid hydrocarbons product in such caverns and the construction and maintenance of facilities for housing employees, pipelines,

separation and dehydration facilities, compressor stations, pump stations, loading stations, wharves, and docks.

B. In addition, where otherwise consistent with the provisions of this Subpart as applied to leased premises, the office of mineral resources State Mineral Board may grant surface or subsurface agreements for the right to erect and use on unleased premises such facilities and equipment.

§148.3. Application for lease

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Any person, firm, or corporation desiring to lease any land or bodies of any lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof under the provisions of this Subpart shall present to the lessor a written application, together with a cash deposit of fifty dollars. The application shall set forth the name and, current physical address, telephone number, e-mail address, and contact person of the applicant, a reasonably definite <u>legal</u> description of the location and in the form required by the lessor, the amount of land or water bodies and beds thereof acreage that the applicant desires to lease, and a request that the land or water bodies and beds thereof acreage described therein be leased to the applicant under the provisions of this Subpart. The application and bids shall be secret, sealed application and bids and held confidential by the lessor until advertisement. Applications shall be mailed to or delivered to the lessor at its official office or business domicile or submitted by such other means as may be authorized by the <u>lessor</u>. The deposit of fifty dollars shall be returned to the applicant if he makes an unsuccessful bid after a sum sufficient to pay the advertising costs had have been deducted.

§148.4. Advertisement

A.(1) Upon receipt of application for the lease, accompanied by deposit, the lessor shall publish an advertisement in a newspaper of general circulation published in the official journal of the parish wherein the land and bodies of lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof are located, or if the parish has no such newspaper, then in a newspaper of general circulation published in an adjoining parish. The advertisement shall be published must appear

not more than sixty days prior to the date for the opening of bids and at least once a week during three consecutive weeks within those sixty days and shall set forth therein a legal description of the land or water bodies and beds thereof to be leased, the time when and the place where bids therefor will be received and publicly opened, whether the bid must be for the whole or may be for any particularly described portion of the land or water bodies and beds thereof advertised, any particular minimum consideration deemed by the lessor in its best interest, and such other requirements or information as the lessor may deem necessary. If the lands or bodies of lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof are situated in two or more parishes, the advertisement shall be published in the official journal for each of the parishes in which a part of such lands or water bodies may be, in a newspaper of general circulation published therein located.

(2) In addition to Paragraph (1) of this Subsection, the applicant shall provide notice by regular or certified mail of the application for the lease to any residence or business located within one-half mile of the land and bodies of lakes, bays, or coves, sea, arms of the sea, or other navigable waters and beds to be leased.

B. Upon receipt of an application for a lease under <u>the</u> provisions of this Section Subpart, the office of mineral resources shall coordinate the study of an application for lease with lessor shall provide notification of such to the Department of Wildlife and Fisheries.

§148.5. Opening Submission and opening of bids; execution of leases

A. Sealed bids shall be mailed or delivered to the lessor at the time and place designated in the advertisement and shall be held confidential by the lessor.

B. On the date and hour mentioned in the advertisement at the time and place advertised, the bids shall be publicly opened by the lessor at the office of the lessor at the lessor's domicile. The lessor shall accept only the highest bid submitted may accept the bid or bids submitted that are determined to be the most advantageous to the lessor and may execute any lease granted under such terms and conditions as it may deem proper in accordance with the provisions of this Subpart. The lessor,

however, shall have the right to reject all bids <u>in its sole discretion</u>. All leases signed by the lessor or by the lessor's duly authorized representative shall be executed in <u>quadruplicate and shall be disposed of as follows as many copies as may be necessary to meet the following requirements: one copy shall be furnished to the lessee; one copy shall be furnished to the Department of Wildlife and Fisheries; one copy shall be recorded in the conveyance records of the parish or parishes wherein the land or water bodies lie; and one copy shall be retained in the records of the lessor.</u>

§148.6. Restrictions on area; term; rental consideration

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A. No lease shall cover an area larger than six hundred forty acres, except provided, however, a lease for the underground storage of oil, natural gas, the area of which liquid hydrocarbons, or carbon dioxide in an underground reservoir shall be limited only by the extent of the underground storage reservoir beneath the lands or water bodies and beds thereof leased. All such leases shall be for a term which may be determined by the lessor and advertised as such, but not exceeding twenty-five years, with the right on the part of the lessee to renew and extend the lease from year to year, not to. A lease may also provide to lessees an option to renew and extend the lease, or for a renewal and extension subject to approval by the lessor, upon such terms and conditions as may be advertised and stipulated in the lease, so long as the total of any such options, or renewals or extension do not exceed an additional period of twenty-five years, upon such terms and for such consideration as may be stipulated in the lease. The lease shall grant to the lessee the right to remove from the leased premises at any time during the life of the lease, or within a reasonable time after the termination thereof, any and all property placed thereon by the lessee.

B. All leases executed under the provisions of this Subpart shall provide for a rental of not less than one dollar per acre per year, which rental shall be payable in eash and yearly in advance reasonable consideration as set forth in the advertisement, which may include, among other consideration, any one or combination of the

following: bonus, rental, or consideration for injection or withdrawal of stored product.

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§148.8. Oil, gas, and mineral rights not affected; exceptions

Nothing in this Subpart is intended to authorize the leasing of lands or bodies of lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof for the exploration and development of the land or bodies of lakes, bays or coves, or other navigable waters and beds thereof same for the production of oil, gas, sulphur, or other minerals, provided, however, such prohibition absence of authorization shall not be construed as prohibiting the drilling for and production the purpose of injection, storage, or withdrawal of any stored oil, natural gas, liquid hydrocarbons, or carbon dioxide into or from an any underground reservoir reservoirs or salt dome caverns, or the drilling of wells for the purpose of making caverns in salt domes and for the injection, storage, and withdrawal of liquid hydrocarbons from such caverns, covered by any lease granted pursuant to the provisions of this Subpart nor to. Such absence of authorization shall not be construed to prohibit the production of any oil, natural gas or condensate, or liquid hydrocarbons which may remain in a partially depleted underground reservoir determined by the commissioner of conservation of the state of Louisiana to be suitable for use as an underground storage reservoir in accordance with the provisions of this Subpart Title.

§148.9. Natural Oil; natural gas; liquid hydrocarbons; carbon dioxide; lease for underground storage

A. No Any lease for the underground storage of oil, natural gas, liquid hydrocarbons, or carbon dioxide granted pursuant to the provisions of this Subpart shall be made pursuant hereto unless, prior to the application for such lease, the commissioner of conservation of the state of Louisiana has issued an order after public hearing pursuant to the provisions of this Title, finding that the underground storage reservoir for which the lease application is made is suitable and practicable for the underground storage of natural gas and that its use for such purpose is in the

public interest, and has determined, in the case of an underground reservoir which is not fully depleted, the amount of the remaining commercially recoverable natural gas and condensate in said reservoir. If the commissioner of conservation shall find that the underground reservoir sought to be leased for the storage of natural gas is not fully depleted, any lease granted pursuant to the provisions of this Subpart shall be granted on condition that the lessee hold or acquire a lease or an agreement with the lessee under a lease upon such lands granted pursuant to the provisions of this Title until it is determined by the commissioner of conservation that such underground reservoir has been fully depleted of its original reservoir content of commercially recoverable natural gas and condensate. In the event the commissioner of conservation finds that such proposed underground storage reservoir has been depleted of its original reservoir content of commercially recoverable natural gas and condensate, any lease granted pursuant to this Subpart shall contain no such conditions granted conditionally and shall not be final until the following conditions are met:

- (1) Lessee shall request a public hearing with the commissioner of conservation within sixty days after the conditional award of such lease.
- (2) After the public hearing is held, the lessee shall obtain an order from the commissioner of conservation finding that the proposed project is in the public interest.
- B. No lease for the underground storage of liquid hydrocarbons shall be made pursuant hereto unless, prior to the application for such lease, the commissioner of conservation of the state of Louisiana has issued an order after public hearing pursuant to the provisions of this Title, finding: Any lease granted hereunder shall be subject to the provisions of R.S. 30:22 and 23, Statewide Order No. 29-M (LAC 43:XVII.Chapter 3), and Statewide Order No. 29-N-1 (LAC 43:XVII.Chapter 1), as applicable.

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1	Section 2. R.S. 30:148.9(B)(1), (2), and (3) are hereby repealed in their entirety.
	SPEAKER OF THE HOUSE OF REPRESENTATIVES
	PRESIDENT OF THE SENATE
	TRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

ENROLLED

HB NO. 1117

APPROVED: _____